

GAYLE F. McKEACHNIE - 2200 McKEACHNIE LAW OFFICES, P.C. Attorney for Petitioner P O Box 340 Vernal, Utah 84078 Telephone: (801)789-4908

IN THE EIGHTH JUDICIAL DISTRICT COURT OF DUCHESNE COUNTY

STATE OF UTAH

IN THE MATTER OF THE GENERAL DETERMINATION OF ALL THE RIGHTS

TO THE USE OF WATER BOTH SURFACE AND UNDERGROUND WITHIN THE DRAINAGE AREA OF THE UINTAH BASIN IN UTAH

) PETITION TO APPROVE 2005) COMMISSIONER'S REPORT, 2006) BUDGET AND SCHEDULE OF) ASSESSMENTS, 2006 SCHEDULE) OF DISTRIBUTION AND REQUEST) TO APPOINT THE 2006 RIVER) COMMISSIONER FOR THE LAKE FORK) RIVER, YELLOWSTONE RIVER AND) SAND WASH CREEK)

Docket No. 3070 Judge John R. Anderson

Petitioner and the Committee for the Lake Fork River, Yellowstone River and Sand Wash Creek, submit herewith the 2005 Annual Report of the Commissioner, the proposed 2006 Budget and Schedule of Assessments, and the 2006 proposed Schedule of Distribution, in accordance with the Interim Distribution Order signed by the Court on May 18, 1998. Petitioners, also, request the Appointment of the River Commissioner for the year 2006.

In support of this Petition, Petitioners represent to the Court that;

1. By its Interim Order dated May 18, 1998, a committee of

water users for the Lake Fork River,, Yellowstone River and Sand Wash Creeks was organized under the direction of this Court. Petitioner Lynn Burton, was Chairman of the committee appointed by this Court to support the River Commissioner and to aid in carrying out the orders of this Court, in connection with the distribution system for the waters of the Lake Fork River, and the Yellowstone River and Sand Wash Creek systems.

- 2. The Committee of the Lake Fork River, Yellowstone River and Sand Wash Creek met on February 23, 2006 and Petitioner Lynn Burton was elected Chairman of that committee and is authorized to file this Petition on behalf of said committee.
- 3. The committee received and approved the 2005 report of the administration of the waters of the Lake Fork River, Yellowstone River and Sand Wash Creek by William Christensen, the River Commissioner for the year 2005. A copy of that report is filed herewith.
- 4. The committee reviewed and approved a budget, with schedule of assessments, for the expenses of the River Commissioner for the year 2006. The Budget and Schedule of Assessments are attached hereto as "Exhibit A".
 - 5. The committee has reviewed and approved, after

consultation with the Utah State Engineer, a proposed Schedule of Distribution of the Waters of the Lake Fork River, Yellowstone River and Sand Wash Creek and recommends it to the Court, for the year 2006. The proposed Schedule of Distribution is attached hereto as "Exhibit B".

- 6. The committee voted to recommend to the Court the appointment of William Christensen as River Commissioner of the Lake Fork River, Yellowstone River and Sand Wash Creek, for a term of one (1) year. Petitioner further alleges that William Christensen is a competent and qualified person to act as said Water Commissioner.
- 7. It is requested by the committee, if for any reason the River Commissioner does not complete his term of office or is unable to fulfill his obligations as River Commissioner, that the committee be authorized to select a temporary replacement River Commissioner.
- 8. The committee requests that the Interim Order entered for the irrigation year of 1998 be reaffirmed and made applicable for the 2006 irrigation year, in the following respects:
- a. It is requested that the River Commissioner be allowed to distribute the water of the streams and reservoirs involved in

accordance with this Court's Interim Order and to do all things necessary for the proper and correct measurement, diversion and distribution of said waters, in accordance with the Decrees of the Federal District Court and state laws.

- b. That the River Commissioner be directed to confer with the respective committees in developing a schedule for distribution of water, specifically, the manner in which the waters of the Lake Fork River, Yellowstone River and Sand Wash Creek, and their tributaries, should be distributed, after consultation with the State Engineer, and shall submit annually a recommended Interim Distribution Order to this Court for its consideration.
- c. That the River Commissioner be directed to deliver and distribute the waters of such non-Federal water rights in the Lake Fork River, Yellowstone River and Sand Wash Creek, in accordance with the proposed Schedule of Distribution, attached hereto as "Exhibit B".
- d. That the waters for the Federal and non-Federal water rights be distributed in accordance with the terms and limitations of the 1923 Federal Court Decrees in cases numbered 4437 and 4418.
- e. That the River Commissioner be required to work with the respective committees to prepare a recommended budget to be

submitted to the Court along with a recommended annual budget. Said annual report and recommended budget are to contain assessments made, monies received, along with a report of expenditures. The Court, after receiving the proposed annual budget, shall provide a thirty (30) day period for objections to be filed.

- f. Upon approval by the Court, the River Commissioner be authorized to manage the budget, to implement the ordered assessments and collection of assessed amounts from the non-Federal water user organizations or water users, and request assessment and collection from the Bureau of Indian Affairs on the Uintah Indian Irrigation Project, in accordance with the approved budget and schedule of assessment.
- g. Any person or entity, which is a water user in the subject rivers, or otherwise affected by the actions of the River Commissioner, may petition and appear before this Court (about the assessment amounts, the manner in which the water is distributed and/or any other claim relating to the distribution of water). In the event there is a violation of the Court's Order or any part of this Petition or, in the opinion of the River Commissioner, the occurrence of the unauthorized use of water, the River Commissioner

be directed to recommend to this Court a solution to the problem, including any remedy to be imposed on the unauthorized water user or violator of the Order.

h. If a non-Federal water user fails to pay any assessments levied, when due, that water users further use of water is prohibited.

WHEREFORE, Petitioner prays as follows:

- 1. That the 2005 report of the administration of the waters of the Lake Fork River, Yellowstone River and Sand Wash Creek be approved, as submitted and filed herewith.
- 2. That the 2006 Budget and Schedule of Assessments, be approved, as submitted and attached hereto as "Exhibit A".
- 3. That the proposed 2006 Schedule of Distribution of Waters of the Lake Fork River, Yellowstone River and Sand Wash Creek be approved, as submitted and attached hereto as "Exhibit B".
- 4. That William Christensen be appointed to serve as River Commissioner of the Lake Fork River, Yellowstone River and Sand Wash Creek, for a period of one (1) year.
- 5. That the Committee for the Lake Fork River, Yellowstone River and Sand Wash Creek be authorized to appoint a temporary replacement should the River Commissioner be unable to complete the

one (1) year term.

6. That the applicable provisions of the 1998 Interim Order, as presented herein, be reaffirmed and made effective for the year 2006.

DATED this 19 day of april , 2006.

McKeachnie Law Offices, P.C.

By: Ann McKeachnie

Gayle F. McKeachnie

y: Xunnt

Chairman of the Committee for the Lake Fork River, Yellowstone River and Sand Wash Creek

ASSESSMENT FOR 2006 PROPOSED BUDGET

	AMOUNT DIVERSION		ASSESSMENT FOR
APPROPRIATOR	CHARGE		2006
CRYSTAL RANCH	50	\$ 13	.68
DRY GULCH IRR, CO.			
UINTAH AREA	6,947	1,869	9.81
LAKE FORK AREA	81,472	21,929	9.59
FARNSWORTH CANAL & RES. CO.	41,117	11,067	7.38
HANSON, GORDON FAMILY	50	13	3.68
HARTMAN, J BRUCE	300	80	0.96
LAKE FORK IRR. CO.	5,022	1,351	l. 7 6
LAKE FORK WESTERN IRR. CO.	7,956	2,141	1.70
LUSTY CATTLE INC.	100	26	5.81
MONARCH CANAL & RES. CO.	234	62	2.91
ROWLEY DITCH	200	53	3.61
SANDWASH IRRIGATION CO.	2,255	606	5.68
SOUTH BONETA IRR. CO.	2,413	649	9.35
T N DODD IRR. CO.	228	61	.27
UTELAND DITCH CO.	3,055	822	2.22
TOTAL ASSOCIATED	151,399	40,751	40
UINTAH PROJECT	51,839	13,953	3.60
TOTAL	203,238	\$54,70	5.00

PROPOSED BUDGET 2006

	APPROVED
SALARY	38,950.00
MILEAGE	3,000.00
FICA	2,980.00
WORKFORCE SERVICES	100.00
WORKMAN'S COMPENSATION FUND	1,500.00
OFFICE SUPPLY	200.00
ASSOCIATED WATER	1,375.00
RECORDERS, REPAIRS, AND ETC.	2,000.00*
OFFICE O & M	900.00
PUBLISH REPORT	100.00
TRUCK PHONE	900.00
PROPERTY AND MISC.	100.00
RETIREMENT FUND	2,000.00
LEGAL	600.00
TOTAL	54,705.00

REMAINING IN EQUIPMENT AND REPAIR \$7,401.65

^{*} THIS AMOUNT TO BE ADDED TO THE \$7,401.65 REMAINING IN THIS ACCOUNT FROM PREVIOUS YEARS AND USED AS MATCHING FUNDS FOR AUTOMATION PROGRAMS ON THE RIVER.

minutes ob Lake fork & Yellowatz Rever Comettees-Lynn Hansen B#A Peith mortensen & Lynn Buton Ossociated Water Bill Christonsen Ruer Comissiones Mr Christensen feels his heather built fe ok to lo his job this summer or retire nou 106 On a prox July 13 the comittee poil meet to forepare to aduction for a new Comissioner about We will expect the new appliants line and take over the jest full time on nout to change the money accounting to nou! to counsily with the water year Dudgel for 2006 will be 54,70500 Motion to approve the actions taken in todays meeting by Reith Morlinser Second for Juntance all

LAKE FORK DISTRIBUTION Flow Storage

3-3068 1 3-3071 1 1-3073 1 1-10362 1 1-1718 1 1-10363 1 1-10363 1 1-1691 20 1-3077 20 1-3084 25 1719 26 1719 26		3-3024 3-3024 3-10375 3-3029 3-2503 3-3030 3-11107 3-8031	WR# 43-3013 43-3014 43-1682 43-1684 43-1686 43-1686 2 1686 2 3021 43-3028 13-3028 13-3028 13-3026 13-3027
1711 1759 1881 1931 1931 1931 1931 2040 2091 2548 2609	490 491 883a 883 883 498 1226 1178	416a-1 416a 438a 438a 438 460 460	
	1850 153 460 425 389 880 994	2061 2060 2070 2070 2070 2069 2265	Cert. # 1231 1171 1215 1215 1213 1214 1217 1220 1228 11228 1175 1228 1175 1229 1669 2059 2045 2071
100000	Lake Fk Irrigation Co. Clark & Ada M. Lusty Uteland Ditch Co. Purdy, Hardy, Solomo Lake Fk Irrigation Co. Lake Fk Western Irr. C. Clark & Ada M.	Dry Gulch Irrigation	
01/07/1908 02/17/1908 02/17/1908 05/25/1908 07/03/1908 07/03/1908 07/03/1908 08/20/1908 08/20/1908 09/25/1908 07/01/1909 07/01/1909	08/29/1905 09/08/1905 09/08/1906 04/26/1906 04/26/1906 09/17/1906 03/02/1907	07/31/1905 07/31/1905 07/31/1905 08/19/1905 08/19/1905 08/19/1905 08/29/1905 08/29/1905	Priority Date 07/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 07/31/1905 07/31/1905
0.73 4.00 28.50 1.20 1111.78 2.00 9.00 7.11 25.22	7.50 2.00 0.74 3.80 1.97 28.00	13.50 14.20 19.00 98.20 107.71 52.40 3.10	Flow cfs 140.06 17.06 17.06 17.05 170.00 5.81 3.30 0.33 6.00 1.57 42.00 68.50
28	O U	70 9204 651	Storage af
FC/			
IRR IRR/DOM IRR FC/Stock IRR IRR IRR IRR IRR		IRR/DOM IRR IRR FC/Stock IRR IRR IRR IRR IRR	Use IRR IRR IRR IRR IRR IRR IRR IRR IRR IR
T C D Z D T D		M Dry Gulch #2 Dry Gulch #1 Dry Gulch #1 Dry Gulch #1 K 6 Reservoirs K 6 Reservoirs Payne Canal Payne Canal DG#1/DG#2/F	Use Canal IRR Lake Fork Canal IRR Lake Fork Canal IRR Payne Canal IRR Payne Canal IRR Red Cap Canal IRR Red Cap Canal IRR Dry Gulch #2 Canal IRR Dry Gulch #1 Canal IRR Dry Gulch #2 Canal
T C D Z D T D	Lake Fork Canal No. 1 Lake Dry Gulch #2 Canal Lake Hamilton Ditch Lake Uteland Ditch Lake Purdy Ditch Lake LF Western Canal Lake	M Dry Gulch #2 Canal Lake Dry Gulch #1 Canal Lake Dry Gulch #1 Canal Yellov k 6 Reservoirs Lake Dry Gulch #2 Canal Lake Payne Canal Lake Payne Canal Lake Payne Canal Lake Lake Fork Canal No. 1 (200)	Canal Lake Fork C Lake Fork C Payne Can Dry Gulch C Red Cap C Red Cap C Red Cap C Red Cap C Quich C Dry Gulch C Dry Gulch C Dry Gulch C Dry Gulch #2 M Dry Gulch #1 M Dry Gulch #2 M Dry Gulch #1

LAKE FORK DISTRIBUTION

9	# Cert. # 1746 398	!	1-0	Flow cfs 2.67	Storage	7 - 7		Source	
2883 3198	- 1			74	af	Use	1	Source	Irria Ac
	398 398			2.67	1	ום מולכו	I	Source	irrin Ac
					_				
3369	1745			1.08		IRR (EF Lake Fork	205.95
	1584			42.00		ב ק ק	Direction Ditch	Lake Fork	76.06
	1400		08/20/1910	5.26		0 7	Diverting Dam	Yellowstone	2860.91
	904	_		8.80		ב ג ג ג	Oteland Canal	Lake Fork	368.18
	949	liteland District	12/29/1910		14000	ב ק ק	Moon Loke Ditch		616.73
7 17 4203	1749		•	0.83		70 7 70 7	Utaland Ottob		70000.01
ژ د.	868	Arthur Barney	•	12.00		70 70 70	Ditch	Lake Fork	57.93
	2010	Moon Lake Water its	04/12/1912	0.36		IRR	Ditch	Laxe Fork	1061.67
3-3125 4872	474	Sharpstone	05/22/1912		730	IRR I	Clamantiaka	Lake Fork	25.11
3-3130 5061	1617	Bryant Cilher	09/26/1912	1.50		RR :		Lake Fork	1587.08
	701	Ephraim Lambert	02/13/1913	0.26		IRR R	Oltch	Yellowstone	101.91
	2252	Moon Lake Water He	07/28/1914	15.00		Flour Mill	Headgate & Ditch	Lake TOTK	18.41
	2251	Moon Lake Water Us	07/28/1915		851.2	IRR R	Farnsworth Canal	VVE - ake most	
	2253	Moon Lake Water Us	07/08/4045		759	IRR	Kidney/Brown Duck	WE Lake Fork	4776.1
		First Security Bank	01/20/1015		1500	IRR	Farnsworth Canal		4852.3
3206 1012	1017	Uteland Ditch/Waugh	01/22/1917	л Э	25000	RR	Moon Lake Reservoir	White hork	4776.1
-3165 7645	2050	Uteland Ditch Co.	03/04/1917	0.59		ב ב ב	Purdy Ditch	Lake Fork	18.61
)))))))	Moon Lake Water Us	02/25/1918		1155	ָ ק ק	Puray Diton	Lake Fork	37.49
	1863	Moon Lake Water Us	11/07/1918		1700	70 7 70 7	Farnsworth Case	Yellowstone	2860.91
	6	Farnawath Care Us	03/24/1919		334	RR ;	Farmers Loko	WT Lake Fork	4887.3
		Moon Lake Water Lie	11/18/1919		1350	RR :	Twin Pote Reservoir	Yellowstone	2860.91
-3046 3268	1102	Uintah Power & Light	05/03/1920		2500	R R	Twin Pote Reservoir		70000,01
-	1747	Dry Gulch Irrigation	03/14/1921	25.00		SC N	Headgate	LAKE FORK	70000.01
3200 9798)	Moon Lake Water Us	08/17/1925		640	o え	Payne Canal	Yellowstone	261.28
	1865	Moon Lake Water Us	05/11/1926		<u>သ</u> .	D 5	White Miles (older	Yellowstone	392.21
	2272	Geo E Eighor II	04/27/1928		104	R	Open Lake	Yellowstone	2860,91
Ψ	2173	I. Warren Odekirk	11/29/1929	2.28		RR :	Rowley Ditch	Yellowstone	2860.91
		Myton City	03/04/1934	1.80		IRR	Ditch	raxer TOTX	42.91
		Moon Lake Water Us	11/09/1940 11/09/1940	2.00)	O <u>Z</u>	•	Lake mork	86.01
	4490	Rue Miles	12/08/1942) U	620	IRR	East & Middle Timothy	Trib Yellowstone	None
3230 12056	3))	Moon Lake Water ∪s		330 00		Irr/Stock		Trib. to Lake Fork	90000.01
2538 8298	6889	Moon Lake Water Us		66.22		ת ב גב גב	wns Dr	Yellowstone & Lake Fork	73000.01
		Moon Lake Water Us	08/08/1953		400	IRR IRR	Ü		
		Clarence Martin	08/08/1953		500	RR :	Eive Point Lake	Yellowstone	6680.01
		Ciarcince of Multay	()//()//195R) no	2 2	j		rellowstone	££\$0.01

AKE FORK DISTRIB

- 0, (WR# 43-3618
33359 33740 34707 34707 34707 34707 35200 36642 37704 22936	Appl. #
7276	#
Grant Hansen Grant Hansen Dean A. Reay Grant Hansen Grant Hansen Grant Hansen Grant Hansen Grant Hansen CUWCD Wildlife Resources Zanes Minerals	Appropriator
06/22/1961 06/22/1961 06/22/1961 11/09/1962 11/09/1962 11/09/1962 11/09/1963 11/27/1964 06/15/1966 07/01/1969	Priority Date
4.95 5.00 1.65 3.00	Flow Storage ity Date cfs
45 76 60 18 50000 1200	Storage
IRR IRR IRR ISFC ISFC ISFC IRR IRR IRR IRR	(IBUT)
Canal Dam and Ditch Dam and Ditch Ditch Reservoir No. 1 Unnamed Reservoir Lake Fork Reservoir Big Sand Wash Res Ditch	ON
Source Trib. to Lake Fork	
Irrig. Ac. 20.01 66.66 135.95 66.25 59.25 66.25 54.21 37500.01	

BIG SAND WASH (REVISED APRIL 4, 1980)

			192	Aug.	1926 Nov.	X 19	Sept. 1916	1914	2 2	ا الد	
	:			13	= ;	1926 Aug 16	28		12	irst	5
			30.0	0.60 Civ		0.78 (0.78)	10.0	Civil 5723		FLOW	
			1/30	11 1257	10/31	- 10/31 1257	10/31	Civil 5723		PERIOD OF USE	
			Sand Wash	Sand Wash C	Sand Wash C	Sand Wash	Sand Wash	Sand Wash	Blood Draw Trib. to Sand Wash	SOURCE & DITCH	
			A.17978 Bo Election Re	A.10011 Cert.1654 Os		A.7282 Cert.1567 N		A.5772 Cert.2039	Civil 1257Bruce	APPL NO.	
••			er	Oscar Nelson 43-	ωω	al J. Mitchell	mash irr.	- W	Hansen Hartman	CLAIMANT	
			73,000.0		Ca.		247.3 xoles	120.00 959.06 - cert	45.40	W.U. CLAIM TOTAL CLAIMS USED NO. ACRES FOR SAME	
							1964.0 Civil 5723			RE: Adj.,	
						CECHINA LE	Original right and Civil #5723	Limited to the Ir	Irr.	vdj., Page	

MAILING CERTIFICATE

Tina L. Hemstreet, legal assistant of McKeachnie Law Offices, P.C., attorneys for Petitioners certifies that she served the attached PETITION TO APPROVE 2005 COMMISSIONER'S REPORT, 2006 BUDGET AND SCHEDULE OF ASSESSMENTS, 2006 SCHEDULE OF DISTRIBUTION AND REQUEST TO APPOINT THE 2006 RIVER COMMISSIONER FOR THE LAKE FORK RIVER, YELLOWSTONE RIVER AND SAND WASH CREEK by placing a true and correct copy in an envelope addressed to:

LYNN BURTON
COMMITTEE CHAIRMAN
STAR ROUTE BOX 140
TALMAGE UT 84073

WILLIAM R MCCONKIE
OFFICE OF THE SOLICITOR
125 S STATE STREET
SALT LAKE CITY UT 84138

ASSOCIATED WATER USERS
DRY GULCH IRRIGATION
P O BOX 265
ROOSEVELT UT 84066

STEPHEN ROTH
ASSISTANT U S ATTORNEY
185 S STATE STE 400
SALT LAKE CITY UT 84111

LEE SIMMS
WATER RIGHTS DIVISION
P O BOX 146300
SALT LAKE CITY UT 84114-6300

NORMAN JOHNSON
ASSISTANT ATTORNEY GENERAL
1594 WEST NORTH TEMPLE #300
SALT LAKE CITY UT 84114-6300

and deposited the same, sealed, with first class postage prepaid thereon, in the United States Mail at Vernal, Utah, on the 17 day

___, 2006.

Tina L. Hemstreet 6